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FISCAL IMPACT STATEMENT

LS 7121

BILL NUMBER: SB 360

NOTE PREPARED: Apr 7, 2005

BILL AMENDED: Mar 24, 2005

SUBJECT: Obesity.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. Becker

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) This bill removes language in the morbid obesity definition that refers to weight guidelines in the Metropolitan Life Insurance table. The bill specifies certain requirements for coverage for surgical treatment of morbid obesity under: (1) a state employee health plan; (2) an accident and sickness insurance policy; and (3) a health maintenance organization contract. It requires monitoring of patients and reporting of specified information by physicians to the State Department of Health.

(B) The bill requires school boards to establish coordinated school health advisory councils to develop a local wellness policy that complies with certain federal requirements.

(C) The bill requires the Department of Education to provide information concerning health, nutrition, and physical activity. The bill requires that foods and beverages available for sale to students outside the federal school meal programs must meet certain requirements. The bill provides that the requirements do not apply after school hours or to fund raisers.

(D) The bill requires daily physical activity for elementary school students in public schools. The bill creates certain exceptions to the daily physical activity requirement.

(E) The bill allows a school to continue a vending machine contract in existence before the passage of the bill. The bill phases in the percent of foods and beverages that must qualify as healthy.

Effective Date: (Amended) Upon passage; July 1, 2005.

Explanation of State Expenditures: (Revised) **(A)** This bill would require the confirming opinion of a second physician that bariatric surgery is necessary for individuals under 21 years of age. The state offers four benefit plans. All four provide coverage for the surgical treatment of obesity, as required by law. Anthem Blue Cross Blue Shield, administrator of the state employees' traditional health plan, reports that the medical policy for prior approval for bariatric surgery is that approval of the surgical treatment for individuals under the age of 18 is evaluated on a case-by-case basis.

State Department of Health: This bill requires a physician that performs a surgical procedure for the treatment of a patient with morbid obesity to monitor the patient for 5 years following the surgery and to report cases that result in serious complications or death to the State Department of Health in the manner to be prescribed by the Department. The Department has estimated for similar types of reporting requirements that a paper-based reporting system with an electronic database could be implemented for approximately \$25,000. Ongoing operating costs are estimated to be \$10,000 annually. The Department is not required to compile the data or report the results in the provisions of the bill. The bill provides that the reporting requirement will expire June 30, 2010.

The Department would be required to promulgate rules in order to implement the reporting provisions of the bill. It is assumed that this administrative task can be accomplished within the existing level of resources available to the Department.

Appropriation Background: The ISDH administrative appropriations were made from the dedicated Tobacco Master Settlement Agreement Fund for FY 2004 and FY 2005. Revenues from fees and penalties collected by the Department are deposited in the General Fund, with augmentation allowed in amounts not to exceed the additional revenue from fees or penalties received after July 1, 2003. The funding source of the FY 2006 and FY 2007 ISDH administrative appropriations will be determined by the General Assembly.

(C) Under the bill, the Department of Education (IDOE) in cooperation with the State Department of Health would be required to give assistance to school advisory councils regarding health, nutritional, and physical activity. The assistance would include educational materials and professional development opportunities. The IDOE would likely be able to fund the costs associated with this proposal through a \$1.8 M grant received by the coordinated school health program from the Center for Disease Control.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) **(B)** Schools should not require additional expense to establish school health advisory committees, make committee appointments, and establish wellness policies. School boards would likely be able to establish the committees within the course of a regularly scheduled business meeting.

(D) Under the bill, schools would be required to provide daily physical activity for students in elementary school. The activity must be consistent with the curriculum and programs developed under current law and may include the use of recess. If recess were used to conduct physical activity under the bill, most elementary schools (kindergarten through fifth grade, and sometimes sixth grade) would not experience any impact to

expenditures. Schools would not be required to provide alternative physical activity in times of inclement weather or other unplanned circumstances.

Explanation of Local Revenues: (Revised) *Summary:* **(E)** Existing contracts or contracts that take effect on or before the effective date of the bill between school corporations and soft drink vendors would be allowed to continue until their expiration date. Under the bill, when a contract expires, the school corporation would not be able to renew the contract and would have to comply with the food and beverage qualification provisions of the bill.

The bill would effect school corporations when their soft drink contracts expire. It is possible lost revenue from soft drink and food sales could be shifted to other beverages, such as fruit juice or water (several major manufacturers of soft drinks also produce fruit and sports drinks). The specific impact to local revenue is indeterminable and would vary among school corporations by the revenue a school corporation currently retains from vending sales of soft drink and food during school hours.

Background: A sample survey indicates that several school corporations have entered into contracts with soft drink manufacturers. The contracts surveyed ranged from \$27,000 to \$230,000 of guaranteed money per year to offer the products of one exclusive manufacturer. Proceeds from the contracts are used by school corporations to fund school-related activities, including education foundations, student activities, teacher development, and extra-curricular activities (such as uniforms for sports teams). A surveyed school corporation was able to secure a 60-acre plot of land with the proceeds of such a contract on which to build a new school facility.

Some corporations have contracts or agreements with more than one manufacturer. Contract amounts vary among the school corporations along with their carbonated beverage policy during school hours and other factors. The survey indicates that school corporations with a restricted access policy to soft drinks during school hours do have contracts with a manufacturer. Terms of an agreement may have a duration of three to over ten years depending on the contract. Other school corporations may not have exclusive contracts, however, they may allow the individual schools within the corporation to secure contracts.

State Agencies Affected: Office of Medicaid Policy and Planning; State Personnel; State Department of Health; Department of Education.

Local Agencies Affected: School corporations.

Information Sources: Melanie Bella, Assistant Secretary, Office of Medicaid Policy and Planning, 317-234-2407; and the presentation of Randy L. Howard, M.D., Senior Medical Director, Anthem Blue Cross Blue Shield to the Commission on Excellence in Health Care, October 27, 2004; Suzanne Crouch, Department of Education; School corporations responding to a Legislative Services Agency survey.

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